

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael Walton,

Case No. 24-CV-2223 (NEB/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Faribault Correctional,

Defendant.

In an order dated July 2, 2024, this Court directed plaintiff Michael Walton to pay an initial partial filing fee of \$32.72, consistent with 28 U.S.C. § 1915(b). *See* ECF No. 4. Walton was given 21 days to pay the initial partial filing fee, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Walton has not paid the required initial partial filing fee. Accordingly, this Court now recommends, consistent with the warning previously given to Walton, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT
PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: August 2, 2024

s/ Tony N. Leung

Tony N. Leung
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).